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ABSTRACT

The manual is designed for training surrogate parents in identification, evaluation, placement, and programing for the handicapped child in Arkansas. General guidelines for the surrogate parent are listed, including meeting the child before requesting to see any school records, presuming that the agency has the child's best interest at heart, and accepting responsibility for assuring that the child receive an appropriate education. Section 1 addresses the surrogate parent's role in relation to protecting the child's rights as mandated by P.L. 94-142 (the Education for All Handicapped Children Act) and the Rehabilitation Act of 1973, section 504. Subsections address agency and parent responsibilities for the following specific procedures: location and referral, evaluation/assessment, individualized education program (IEP) programing, annual review of the IEP, and reevaluation. Section 2 is designed to provide information on the rights of the surrogate parent as covered by P.L. 94-142. Rights have been paraphrased from the federal regulations with references to the section numbers in the regulations. Rights are addressed concerning notification, consent, evaluation and placement procedures, independent education evaluation, records, confidentiality of information, the least restrictive environment, hearings, hearing officers, hearing rights, appeals, and appointment and representation of surrogate parents. Appended are definitions of terms used in the federal regulations and sample forms for parent notification, annual review notice, and individual education plans. (SW)

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# A TRAINING MANUAL FOR SURROGATE PARENTS

## Rules and Responsibilities

(Developed by Special Education Section,

Arkansas Department of Education)

ARKANSAS DEPARTMENT OF EDUCATION

DON R. ROBERTS
DIRECTOR

1982

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TABLE OF CONTENTS


You -- As a Surrogate Parent . . . . . 1

Considerations for You -- The Surrogate Parent . . . . . 3

Section I Your Role as a Surrogate Parent . . . . . 4

The Surrogate Parent's Role . . . . . 5

Location and Referral . . . . . 7

Evaluation/Assessment . . . . . 8

Programming . . . . . 11

Annual Review . . . . . 14

Re-Evaluation . . . . . 16

Section II Surrogate Parent Rights . . . . . 17

Your Rights as the Surrogate Parent of a Handicapped Child . . . . . 18

Appendix A Definitions (A-1 through A-10) . . . . . A

Appendix B Sample Forms (B-1 through B-16) . . . . . B

## YOU -- AS A SURROGATE PARENT

You have been selected for training to learn to act as a surrogate parent for a handicapped child. You will be a very important person to a handicapped child who needs you to protect his rights and to assure that he receives an appropriate education. You will be representing the interests of the child because his parents have not been located, are not known, or the child is a ward of the State of Arkansas.

Under State and Federal legislation, you will represent a child who has not reached adulthood. The age of majority (adulthood) is eighteen. If you are representing a child who has reached or is about to reach his eighteenth birthday, contact the person who assigned you to be a surrogate parent. Report that your child is now or is about to reach the age of eighteen. The assignment could be continued if the child has been placed in continued custody of the State of Arkansas by court order. Otherwise, your responsibility will stop.

You will be involved with the identification, evaluation, placement, and programming for a handicapped child. Identification, evaluation, placement, and programming are educational terms that you will learn more about as you receive training to serve as a surrogate parent. Please remember that your responsibility for this child does not extend beyond representing the child for educational purposes. If the child is not found to be handicapped, your responsibilities and obligations will stop. You are to be a surrogate parent for a handicapped child or youth only. If the child to whom you have been assigned is found not to be handicapped, you may request assignment to another child.

This manual will assist you in being an effective surrogate parent. Throughout the manual we will be discussing "your child"---the one for whom you will serve as a surrogate parent. As you work to determine what is in the best interest of the child, it will be important that you consider this question, "If this were my child, would I be satisfied with the educational program he or she is getting?"

Throughout this manual the term "an agency" that is involved in the education of your child will be used. The term agency may mean the school, community center, institution or other program that is providing educational services to your child. As you enter the world of the handicapped, there may be other terms which are new to you. You, as a surrogate parent, are representing a child who either has already been determined to be handicapped, or who has been referred for evaluation to determine if a handicap exists. You will be working with the agency officials to determine the appropriate educational program for this child based on his needs as a result of his handicap. Many of the terms that are used in the special education program will be defined in the manual and in the appendices. Don't let unfamiliar terms scare you. The professionals working with your child will be happy to explain them.

At times you may be reluctant to ask a question because you think that you should know the answer. It is very important for you to remember that no question is too simple to ask. You have the responsibility to be fully informed about the child you represent. At any time that you do not understand what is happening, ask those professionals who are working with your child to explain the things you do not understand.

## CONSIDERATIONS FOR YOU -- THE SURROGATE PARENT

Before you get involved with the specifics of your responsibilities as a surrogate parent, some general comments will provide you with a few do's and don'ts.

1. Meet your child before you request to see any school records. Form your own opinions and impressions about your child. Then review the records for valuable information that you should have.

2. Presume that the agency has the child's best interest at heart. Ask all the questions you can think of, but do not start out by putting the agency's staff on the defensive. You and the agency are partners in the education of your child.

3. The concept of asking surrogate parents to protect the rights of children is a new concept to both you and the agency that is currently serving your child. Allow time for all persons involved to adjust to this new set of circumstances. This concept will work for the betterment of your child.

4. You are to protect the educational rights of the child. You will assist the agency in developing the individualized education program (IEP), implementing the IEP, and evaluating the student's progress. Be patient, but do not accept less than the law requires or less than what you would want if this were your own child.

5. Read this manual completely, including the appendices. They have important information that you will need to know. Become familiar with the way the manual is organized so that you can find information quickly when you need it. Use the manual when you need to know your responsibilities.

6. Don't be a loner. When you have a question, ask. Ask the professionals who are involved with the education and/or care of your child. If they cannot help you, check other resources including the Arkansas Department of Education, Special Education Section. Find someone to answer your question.

7. You have accepted the responsibility for insuring the educational rights of your child and for assuring that he receives an appropriate education. If you find that you are unable to meet all your responsibilities, someone else should represent your child. Contact the person who enlisted you to be a surrogate parent to discuss the matter.

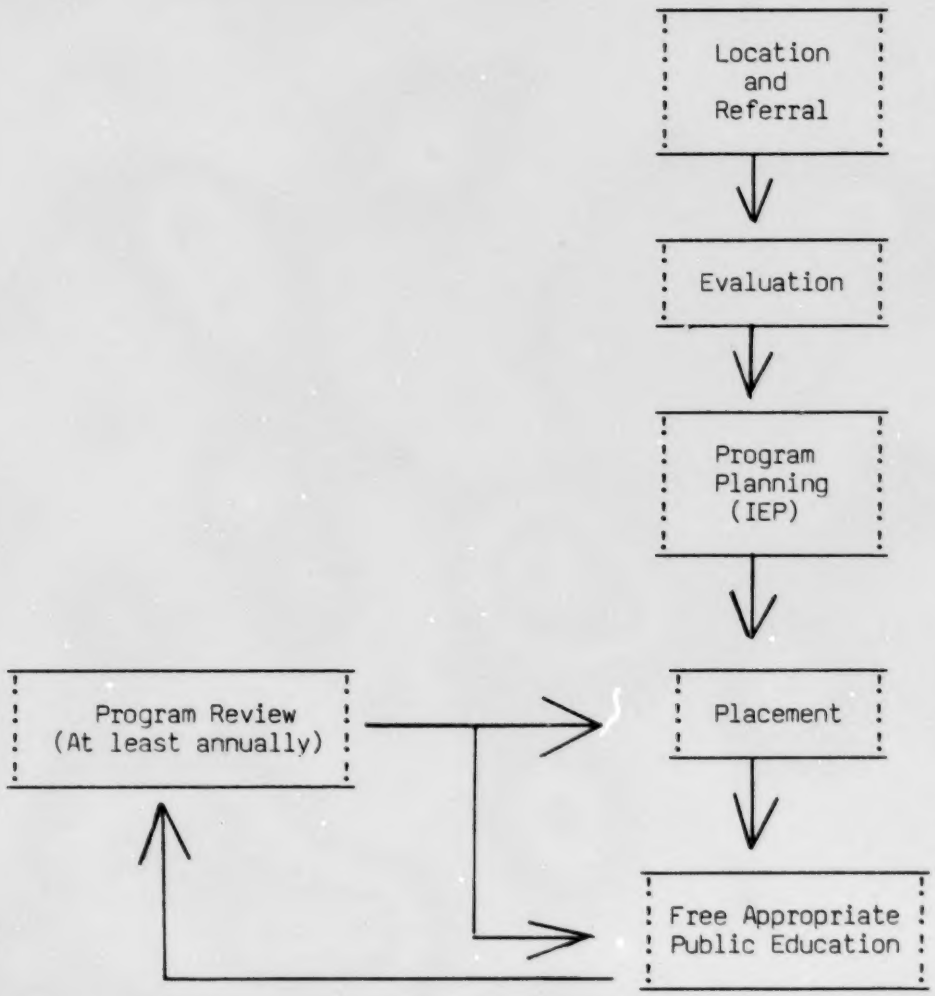
SECTION I

YOUR ROLE AS A SURROGATE PARENT

## THE SURROGATE PARENT'S ROLE

Public Law 94-142, The Education for All Handicapped Children Act of 1975, requires that a surrogate parent be enlisted for handicapped children who are wards of the State of Arkansas or whose parents are not known or are unavailable. As that surrogate parent, you are to be involved in the process of referral, evaluation, program planning, and placement of the child. Your responsibility is to ensure that the child's rights are protected in the process of providing education. In addition to P.L. 94-142, a free, appropriate education is guaranteed by Section 504 of P.L. 93-112 and Arkansas' Act 102 of 1973, as amended by Act 641 of 1975.

The procedures identified above look like this when placed into a flow chart.



The arrows point in the direction in which each procedure is to flow. However, you may be assigned to a child who has moved through some of the steps and is already involved in the provision of a free, appropriate public education. In that case you will review all records leading to the programming and placement for your child. If you agree with the programming and placement, the provision of services may continue. If you do not agree, you may request a program review. As a result of the program review, it may be necessary to request a re-evaluation of the child and to become involved in a new placement decision. Each of the procedures listed in the flow chart is explained on the following pages.

The following summarizes your major responsibilities as a surrogate parent.

- To represent the child in the educational decision-making process.
- To become acquainted with the child's educational background and educational needs.
- To be available for the evaluation summary.
- To comply both with state and federal laws in the areas of confidentiality of information.
- To give input in IEP development.
- To review and monitor the child's educational program.
- To conciliate and negotiate to assure compliance with special educational requirements and to assure appropriate education and services.
- To initiate and represent the child in administrative remedies, impartial hearings, and the appeal procedures if such are necessary.

This manual will assist you learning how to fulfill these responsibilities.

## LOCATION AND REFERRAL

The identification process has several steps. The agency must (1) locate all handicapped children, (2) refer children for consideration of special education services, (3) notify parents of the referral, (4) secure informed parental consent prior to evaluation, and (5) provide written notice of actions proposed by the agency.

What are the agency's responsibilities:

1) To locate all handicapped children.

2) To refer children with suspected handicaps for consideration of special education services.

3) To provide you with written notice explaining the steps or actions the agency proposes to take.

4) To explain or clarify items in the written notice which you may not understand.

5) To secure your informed consent in writing before proceeding to obtain an evaluation/assessment of the child.

What are your responsibilities?

1) To read the referral notice carefully.

2) To attend the referral conference.

3) To ask questions about terms, statements, or procedures which you do not fully understand.

4) To sign the informed consent for evaluation after you are sure you understand the reasons for and types of tests to be given to your child. Do not sign a blank form.

5) To communicate and cooperate with the agency and to insure that the cooperative efforts lead to an appropriate education for your child.

For additional information, please refer to Section II on page 17 in this manual. A set of sample forms which include a referral form, parent notice of referral, referral conference decision form, parent notice of referral conference decision, and parental informed consent for evaluation can be found in Appendix B. If you are assigned as a surrogate parent before the child moves beyond the location and identification stage, then you will receive forms like or similar to these sample forms.

## EVALUATION/ASSESSMENT

Evaluation is defined as the data gathering process where procedures are used selectively with an individual child. The purpose of evaluation is to determine the presence of a handicapping condition which results in an educational deficit and the corresponding need for specially-designed instruction. Evaluation data is also utilized in program planning, including the determination of a need for related services. Evaluation procedures must be completed within sixty (60) calendar days of the Referral Conference Decision notification to you. You must give written informed consent before the agency can evaluate/assess your child.

The components of the assessment will result in a comprehensive evaluation of your child. Components include intellectual, achievement, adaptive behavior, communicative abilities, and other pertinent sources of information. Other sources may include observation of the child by professionals. These observations could be in the classroom, around the agency's facilities or in the child's home-living environment. In some instances it may be necessary for your child to be seen by a medical doctor; an ear, nose, and throat specialist; a dentist; or some other specialist who may evaluate his hearing, vision, motor development, etc.

You will not be responsible for any costs for these evaluations. The agency requesting the evaluation will pay the costs. You are responsible for asking questions about procedures, tests, or observations which you do not understand before you sign the informed consent for evaluation. Make sure the agency has completed the informed consent form before you sign it. Signing a blank authorization form is not informed consent.

Following the completion of the evaluation of your child, you will receive written notice that an evaluation/programming conference has been scheduled. At this conference, you and the professionals working with your child will review all the data that has been gathered about your child. You will begin to make some very important decisions about the child you represent. The decisions are related to these questions. (1) Does this child have a handicapping condition as defined in P.L. 94-142? (2) Does this child have an adverse affect on his educational performance (or educational deficit) because of his handicap? (3) Does there exist a corresponding need for special education?

Procedures published by the Arkansas Department of Education are used to determine your child's eligibility for special education services. Once it has been determined that your child is eligible for special education services, the next step is to develop the program of study or individual education plan (IEP) for your child. You will be involved in each of these processes, so continue to communicate with the agency that is serving your child.

What are the agency's responsibilities?

1) To secure your informed consent after explaining the procedures, tests, observations, and other activities that will be used as a part of the evaluation process.

2) To conduct the assessments or arrange for the assessments to be conducted by the individuals who are qualified to administer the various components of the evaluation.

3) To compile all existing information regarding your child.

4) To inform you of the evaluation results and what they mean for the educational planning for your child. (This will be done during the evaluation/programming conference.)

5) To show you all your child's education records upon your request (within forty-five [45] calendar days of your request or before the placement committee meeting).

What are your responsibilities?

1) To provide written informed consent for the evaluation of your child after you understand the procedures, tests, observations, and other activities that will be used as a part of the evaluation process.

2) To provide any information about your child that may be helpful to the agency.

3) To review all existing education records on your child to learn what information has already been documented.

4) To participate actively with the agency to compile all information possible and to learn the results of the evaluation/assessment process.

5) To ask questions about testing results when you do not understand what you are being told.

What do you do if you disagree with the agency?

You can:

1) Request another evaluation (called an independent evaluation) to be provided by the agency at their expense.

2) If the agency refuses to honor your request, request in writing the reasons for their refusal. Then decide if you think the reasons are valid. If you do not think the reasons are valid, you may request a due process hearing to determine whether the independent evaluation will be paid for by the school or agency.

For more information, refer to Section II in this manual.

Appendix B contains sample forms for the notice of the evaluation/programming conference, the evaluation/programming conference decision form, and the parental notice of the evaluation/programming conference decision. If you are assigned as a surrogate parent before the child moves beyond the evaluation stage, you will receive these or similar forms.

## PROGRAMMING

The next step is the development of an educational program based upon the data obtained during the evaluation process. Data will contain information concerning the student's intellectual ability, where the student is performing in the different skill areas, and what the student's particular strengths and weaknesses are. To ensure that the requirements of P.L. 94-142 and Act 102 of 1973, as amended by Act 641 of 1975, for a free, appropriate education is provided, the programming needs of your child will be documented. This document is called the individual education plan (IEP). An IEP must be developed for each child who is to receive special education and related services. The IEP is developed by a committee. It is usually developed during the evaluation/programming conference. It must be developed before a decision can be made as to the placement of your child. The minimum number of people to serve on the committee is three (3). These include (1) a representative of the agency, (2) you, the surrogate parent, (3) your child's teacher, and (4) your child, if you think that is appropriate. If the IEP is being developed for the first time, the agency will include someone who is knowledgeable about the evaluation procedures used with your child and who is also familiar with the results of your child's evaluation. A sample IEP form can be found in Appendix B. Each agency can develop its own IEP form. Remember, it is not the form that is important, it is what the form contains that is important. The minimum parts of an IEP are:

(a) A statement of the child's present levels of educational performance.

(b) A statement of annual goals, including short-term instructional objectives.

(c) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs.

(d) The projected dates for initiation of services and the anticipated duration of the services.

(e) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved.

The same program options and non-academic services which are available to non-handicapped students must be available to handicapped students. As an assurance of compliance with this requirement, the IEP must contain a description of those services which are available to the child. Program options may include art, music, industrial arts, home economics, and vocational education. Non-academic services and extra-curricular activities may include athletics, health services, recreational activities, and special interest groups or clubs.

The IEP must be completed before your child is placed in special education and related services. The services stated in the IEP must be provided within

fifteen (15) calendar days following parental notification of the Evaluation/Programming Conference decision unless you object to the placement. Even though the law requires that the agency must provide the special education and related services to a handicapped student, the IEP is not a binding contract. The law does not require that the agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives. You should cooperate with the agency if they are making a reasonable effort to secure the services stated in the IEP. Sometimes it is difficult to find some of the services needed. If the agency is trying, be patient; if they are not trying, encourage them to secure the services.

What are the agency's responsibilities?

1) To designate school personnel to participate on the IEP Committee.

2) To arrange the meeting at a time and place that is mutually agreeable.

3) To develop with you the various components of the IEP.

4) To implement the IEP and provide the services as specified in the IEP.

5) To review the IEP at least once per year.

What are your responsibilities?

1) To attend the meeting when the IEP is developed.

2) To participate with the other committee members to develop the IEP for your child.

3) To observe your child, if possible, to determine if the IEP is working for him.

4) To participate with the agency officials in review(s) of the IEP.

5) To implement, when the committee has determined it appropriate, part of the IEP.

6) To request a review and possible revision of the IEP, if after a reasonable period of time, the IEP does not seem appropriate.

7) To request a copy of the IEP if you wish to have one.

8) To ask questions when you do not understand the terms or parts of the IEP.

What do you do if you do not agree with the agency?

1. Try to resolve the differences through conferences with the agency officials.

2. Allow a reasonable period of time to see if the IEP is effective. If it is not, a due process hearing may be necessary.

3. Secure in writing the reason(s) for any refusal to implement all or part of the IEP.

4. Request a due process hearing if you and the agency are not able to resolve your disagreement.

For additional information, refer to Section II in this manual.

## ANNUAL REVIEW

The agency providing services to your child must review the program, placement, and progress of your child at least once a year. The review must include: (1) relevant information from all those providing instructional services and/or related services, (2) an analysis of the child's performance in all academic areas, and (3) an analysis of the child's current social and/or adaptive functioning. The review is made in relation to the child's IEP and the progress he has made. Based on this review, the IEP will be updated. You may request additional reviews of the child's progress when you think it would be beneficial to have his program reviewed. When the IEP is updated or revised, new information related to the child's level of educational performance, new annual goals, new short-term instructional objectives, changes in the services provided or the duration of those services must be stated on the new IEP. You will be asked to sign the new IEP, if you agree with the changes. A revised IEP must contain the minimum components just as the original IEP did. Most agencies complete a new IEP form when the IEP is updated at the annual review. After the IEP is revised to reflect the student's progress and needs, it may be necessary to consider a placement which is different than the one in which the child is currently receiving services. You can agree or disagree with the placement change. However, remember that changes may be necessary to benefit your child.

What are the agency's responsibilities?

1) To conduct a committee meeting to review the IEP within one year after the development of that IEP.

2) To notify you of the time and place for the meeting that has been mutually agreed upon.

3) To provide information needed to review the student's progress.

4) To provide you with access to all the educational records of the child.

5) To provide you with a revised copy of the IEP upon your request.

What are your responsibilities?

1) To attend and participate in the annual review meeting.

2) To share with the other committee members your observations about the child's progress during the time the IEP has been in effect.

3) To request a copy of the IEP if you wish to have a copy.

4) To cooperate with the agency in implementing the IEP.

5) To sign the IEP if you agree with it.

What do you do if you do not agree with the IEP?

1) Ask for a second opinion from professionals you respect about the appropriateness of the IEP for your child or about the placement.

2) Request a due process hearing if you and the agency cannot reach agreement after you meet to discuss your disagreements.

For additional information, please refer to Section II in this manual.

## RE-EVALUATION

Public Law 94-142 requires the agency serving your child to re-evaluate him at least every three (3) years, or sooner if you or his teacher requests it. The re-evaluation procedures must be the same or similar to the ones that were used the first time your child was evaluated. After conducting a re-evaluation, the agency will notify you of a conference where the results will be discussed with you.

Evaluation results that are more than three (3) years old cannot be used to determine eligibility or placement of your child. Be sure to check the dates of the evaluation reports. Make certain they are current enough (within three years) to be used.

What are the agency's responsibilities?

1) To re-evaluate at least once every three (3) years.

2) To conduct a re-evaluation sooner than three (3) years if you or your child's teacher requests a re-evaluation.

3) To provide you with access to all educational records on your child.

4) To conduct a conference or meeting to discuss the results of the re-evaluation with you.

What are your responsibilities?

1) To cooperate with the agency in securing the re-evaluation of your child.

2) To request a re-evaluation of your child if you think the program or placement is not appropriate.

3) To attend the conference when the results of the re-evaluation are discussed.

What do you do if you disagree with the agency?

1) If the agency refuses to comply with your request for a re-evaluation, request, in writing, the agency's reasons. After you receive the reasons, decide if you want to request a due process hearing.

For additional information, please refer to Section II in this manual.

## SECTION II

## SURROGATE PARENT RIGHTS

This section is designed to assist you in understanding your rights as a surrogate parent. The rights have been paraphrased from the federal regulations which govern P.L. 94-142. The numbers on the left refer to the section numbers in the regulations.

## YOUR RIGHTS AS THE SURROGATE PARENT OF A HANDICAPPED CHILD

The following information is a detailed statement of parental rights. The citations at the left side of the page refer to the specific section of the Federal Regulations. In the interest of simplicity, they have been paraphrased here.

### "NOTICE"

As a parent you have a right to:

300a.504(a)(1)(2) ... be notified before the school identifies, assesses, or places your child on grounds of having a handicapping condition; or changes an identification, assessment, or placement that has been made; or rejects your request that these actions be taken.

300a.506(b)(1)(2) ... receive all such notices in writing and in the language you speak and understand best. If these are parents whose native language is not a written language, the school officials must see that the notice is explained to them orally or in a mode of
300a.505(c)(1)(2)(3) communication they understand, that they understand the information they have been given, and that there is written evidence that this requirement has been met.

300a.505(a)(3) ... be notified of each testing procedure, record, or report the school will use as the basis for any decision regarding your child.

300a.505(a)(2) ... a description of the plan for your child with an explanation of why it is recommended, what other options were considered, and why those options were ruled out.

300a.505(a)(4) ... be informed of any other relevant factors that school officials considered in their decision.

The notice you receive must also include all of the information contained in this booklet.

### "CONSENT"

Your written consent is necessary before the school may:

300a.500(a)
300a.504(b)(1)(i) ... test your child individually with any tests that are not generally given to most other students.

300a.504(b)(1)(ii) ... place your child in a special education program for the first time.

300a.500(a) Before your consent is given, the school must explain in your native language what you are agreeing to, and the school must be sure that you understand it. The consent form must describe what you are agreeing to, list which
300a.500(b) of your child's records (if any) will be released, and specify who will receive them.

300a.500(c) Your consent is to be given freely, and you may withdraw it at any time.

300a.504(b)(2) If you do not give your consent, your child's basic right to attend school and participate in school activities will not be affected by your refusal.

300a.504(c)(1) If you refuse to give your consent, and the school administrators believe what they propose is in your child's best interest, the school may request a hearing. An independent hearing officer would then decide whether
300a.504(c)(2)(i) your child should be tested or placed without your
300a.504(c)(2)(ii) consent. You have a right to attend this hearing and tell why you refuse to give your consent. You also have a right to appeal the decision to the State if the procedure was a local hearing.

"EVALUATION AND PLACEMENT PROCEDURES"

300a.531 Before your child receives any special education services, a full and individual evaluation must be conducted. This means your child will be give specific tests which are not usually given to most school children.

In this circumstance your child has a right to:

300a.532(a)(1) ... be tested in the language which he or she speaks and understands best,

300a.530(b) ... be tested in such a manner that results are not affected by race or culture,

300a.532(a)(2)(3) ... be tested by qualified professionals using valid tests which are given according to proper instructions,

300a.532(e) ... be evaluated by a group of professionals including at least one teacher or specialist who is knowledgeable about the kind of problem your child is thought to have,

300a.532(f) ... be tested in all areas related to his or her suspected problem,

300a.532(b) ... be tested through procedures which determine specific areas of educational need, not just an intelligence ("IQ") test,

300a.532(d) ... have his or her educational program determined on the basis of more than one test,

300a.534(b) ... receive a complete re-evaluation every three years, or more frequently if necessary or if requested by you or your child's teacher,

300a.534(a) ... have his or her individualized educational program (IEP) reviewed annually.

300a.532(c) Tests must be given to children with impaired hearing or vision, or restricted ability to move or speak, in such a way as to measure the child's potential ability or what the child has learned and not the degree of impairment (unless, or course, measuring impairment is the purpose of the test).

When looking at test results and deciding on the best program for your child, the school must:

300a.533(a)(1) ... collect information from many sources,

300a.533(a)(2) ... guarantee that this information is documented and carefully considered,

300a.533(a)(3) ... insure that the placement decision is made by a group of professionals including some who know about your child and are professionally capable of interpreting the test results and relating those results to appropriate options,

300a.533(a)(4) ... insure that the placement decision is made in such a way that your child's education will be to the extent appropriate, with children who are not handicapped.

300a.533(b) If it is determined that your child is handicapped and is in need of special education and related services, an IEP must be developed.*

*An IEP is an individualized educational program which must include a statement of your child's present levels of educational performance, a statement of annual goals and short term objectives for your child, a statement of the specific special education and related services to be provided, the extent to which your child will be able to participate in regular education programs, and the projected dates for beginning the special education and how long it is expected to continue. It must also include an objective way of determining, at least annually, whether your child is achieving the short term objectives that were set. This IEP must be decided upon in a meeting which includes a representative of the school your child attends (this must be someone who is qualified to provide or supervise special education,) your child's teacher, you as the child's parent or parents, and your child if that is appropriate. Either you or the school may have others participate. If you wish additional information about your child's IEP you should ask your child's teacher or an official of your child's school.

## "INDEPENDENT EDUCATION EVALUATION"

300a.503(a)(b) If you do not agree with the evaluation provided by the school -- that is, if you don't think they gave the right tests or reached the right conclusions -- you may have an independent educational evaluation conducted at public expense. An "independent educational evaluation" means that your child will be tested by a qualified person who is not employed by the school your child attends. The
300a.503(a)(3)(i) school will either pay for a private evaluation or will arrange for one at no cost to you.
300a.503(a)(3)(ii) However, the school also has a right to a hearing, to show that its evaluation was appropriate. If the hearing officer decides that the school's evaluation was appropriate, you still have the right to an independent
300a.503(b) educational evaluation, but not at public expense.

300a.503(a)(2) The school must inform you, upon your request, where independent evaluations are available.

If you have an independent evaluation conducted at your own expense, the results of this evaluation:

300a.503(c)(1) ... must be considered by the school in any decision regarding your child's education, and

300a.503(c)(2) ... may be presented as evidence in a formal hearing (see page 7)

300a.503(d) If an independent evaluation is requested by a hearing officer as part of a "due process hearing," the evaluation must be at public expense.

300a.503(e) Evaluations conducted at public expense must meet the same criteria (qualifications of examiner, etc.) as those conducted by the school.

"RECORDS"

You have a right to:

300a.565 ... receive, upon your request, a list of the types of education records kept on your child, where they are maintained, and how you can get access to them, and

300a.562(a) ... inspect and review any of your child's records.

The school must comply with your request to do so:

without unnecessary delay

before an IEP meeting or hearing

within 45 days

300a.566(b) (The school may not charge to search for or collect the information)

300a.562(b)(1) ... have someone at your child's school explain or interpret any item in your child's records

300a.562(b)(2) ... receive copies of the records if this is the only way to insure that you will be able to review and inspect them. The school may charge a fee for the copies, if such a charge does not prevent you from inspecting and reviewing the records

300a.562(b)(3) ... have a representative inspect and review the records

300a.562(c) The school may assume that you have the authority to inspect and review your child's records unless it has been informed that you do not have this right (because of some legal action such as custody, for example).

300a.567(a) If you feel that any statements in your child's records are wrong or misleading, you may ask the school to change them. The school must either change such statements in a reasonable period of time or formally refuse to do so.

300a.567(b)
300a.567(c) If it refuses, school officials must inform you of their refusal and advise you of your right to a hearing on the matter.

300a.568 If you request such a hearing, the school must hold one.

300a.570 This hearing does not necessarily follow the process described in the "hearings" section of this explanation of rights (to be found on page 7). The hearing may be conducted by any school official who does not have a direct interest in its outcome.

300a.569(a) If the hearing is decided in your favor, school officials must change the information and inform you they have

300a.569(b) done so.

300a.569(c)(1)(2) If the information is held to be accurate, you have the right to add your own statement to the record. Your statement must be kept as long as the contested part of the overall record is kept, and if that record is shown to anyone, your statement must also be shown.

"CONFIDENTIALITY OF INFORMATION"

300a.572(a) The school is responsible for protecting the confidentiality of your child's education records by:

300a.572(b) ... naming the individual who is responsible for insuring the confidentiality of records,

300a.572(c) ... guaranteeing that all persons who collect or use such information receive training in the State's policies and procedures regarding confidentiality,

300a.572(d) ... keeping for public inspection a list of those employees who are permitted access to these records,

300a.564 ... permitting parents to see only that information which relates to their own child when records contain information on more than one child,

300a.571(a)(1) ... requiring your consent before your child's education records are given to anyone not involved in your child's education,

300a.571(a)(2) ... requiring your consent before using your child's records for any purposes other than those related to providing special education and related services. However, states may have policies and procedures

300a.571(c) which apply in the event that you decline to give this consent and that the school feels the records should be given to the person who requested them. These procedures could allow the school to send copies of the records to the requesting person or agency, under certain circumstances, despite your objection.

300a.573(a)(b) ... informing you when confidential information on your child is no longer needed. At your request, this information must be destroyed (or changed so that it cannot be identified as belonging to your child).

300a.561(a) States are required to have continuous procedures to identify handicapped children and to publish a statewide notice in newspapers or other media which informs parents of the requirements regarding identification of handicapped children.

It must include:

300a.561(a)(1) ... information as to the languages in which the notice is available,

300a.561(a)(2) ... a description of the children on whom confidential information is kept and the uses of that information,

300a.561(a)(3) ... a description of how this information is kept and protected,

300a.561(a)(4) ... a description of the rights of parents and children regarding this information.

"LEAST RESTRICTIVE ENVIRONMENT"

Your child has a right to:

300a.550(b)(1) ... be educated to the extent appropriate with children who are not handicapped,

300a.550(b)(2) ... be in a regular classroom unless the nature or severity of the handicap is such that he or she cannot receive a satisfactory education in the regular classroom, using additional aids and services,

300a.551(b)(1) ... have a range of placements available, including regular school classes, special classes, special schools or institutions, residential placements, and home instructions,

300a.553 ... participate with non-handicapped children in extra-curricular and non-academic activities,

300a.552(c) ... attend the school he or she would attend if not handicapped, unless the IEP calls for a different placement.

Your child's educational placement must be:

300a.552(a)(1) ... reviewed and decided upon at least annually,

300a.552(a)(2) ... based on the IEP,

300a.552(a)(3) ... as close to home as possible.

300a.551(a)
300a.552(b)
300a.551(b)(2) Every school must have available a variety of settings to meet the educational needs of handicapped children. This range must include any placement which is needed to implement the child's IEP. Provision must also be made for supplying any supplementary services needed when a handicapped child is in a regular class.

300a.552(d) In selecting the least restrictive environment for your child, school officials must consider any possible harmful effects that a particular placement may have on your child or on services your child is to receive.

It is the responsibility of the State Department of Education to:

300a.554 ... make arrangements with public and private institutions to insure that to the extent appropriate, handicapped children are educated with non-handicapped children,

300a.555 ... insure that teachers and administrators are fully informed about the implications of the concept of the least restrictive environment and receive training and assistance in its application,

300a.556 ... insure that all schools in the state are carrying out these requirements. If there is evidence that a school is not, the State Department of Education is obligated to review the school's performance and to see that any shortcomings are corrected.

## "HEARINGS"

300a.506(a) If at any time you cannot come to agreement with the school regarding your child's education, you have the right to ask for an impartial hearing. A hearing may be held on any matter relating to the identification, evaluation, or placement of your child or the provision of a "free appropriate public education". Hearings are to be held by either the State Department of Education or the school directly responsible for your child's education.

300a.506(b) To obtain a hearing, you should make a written request to the person who is responsible for the education program your child attends.

## "HEARING OFFICERS"

An impartial hearing officer will be assigned to preside over any such hearing and arrive at a decision. To insure impartiality, a hearing officer may not be:

300a.507(a)(1) ... an employee of a public agency (school system, institution, etc.) which is involved in the education or care of your child,

300a.507(a)(2) ... anyone who has a personal or professional interest which would conflict with objectivity in the hearing.

300a.507(c) Each school must keep a list of persons who serve as hearing officers and their qualifications.

## "HEARING RIGHTS"

Rights which both you and the school are entitled include the right to:

300a.508(a)(1) ... be accompanied and advised by legal counsel and by persons with special knowledge of the problems of handicapped children,

300a.508(a)(2) ... present evidence and cross examine and compel the attendance of witnesses,

300a.508(a)(3) ... prohibit the introduction of evidence that had not been revealed to you at least five (5) days before the hearing,

300a.508(a)(4) ... receive a written or recorded verbatim record of the hearing,

300a.508(a)(5) ... receive a written finding of fact and the decision of the hearing.

You also have the right to:

300a.506(c)(1)(2) ... be told by the school where free or low cost legal help is available. The school must give you this information at any time you request it or whenever a hearing is to take place,

300a.508(b)(1) ... have your child attend the hearing if you wish,

300a.508(b)(2) ... open the hearing to the public if you wish,

300a.512(d) ... have the hearing conducted at a time and place reasonably convenient to you.

300a.512(a)(1)(2) Within 45 days of receipt of your request for a hearing, the hearing officer must reach a decision and mail you a copy of the decision.

300a.512(c) The hearing officer may grant an extension to this time period at the request of either party. The decision of the hearing officer is final unless either you or the school chooses to appeal.

"APPEALS"

300a.510(a)(b) If your hearing was held by the State and you are not satisfied, you can bring civil action in a State court or a U.S. district court. If your hearing was held by your school rather than the State, and if you are dissatisified with the decision of the hearing officer and would like to appeal it, you must inform the State Department of Education of your desire to do so. The State Department of Education will then conduct an impartial review of the hearing. The officer conducting the review will:

300a.510(b)(1) ... examine the entire hearing record,

300a.510(b)(2) ... insure that the hearing was conducted properly,

300a.510(b)(3) ... seek more evidence if necessary, if a hearing is held to receive this additional evidence, then the hearing rights previously described would apply,

300a.510(b)(4) ... give both parties an opportunity to present arguments,

300a.510(b)(5)(6) ... make an independent decision and give both parties a copy of the decision.

300a.510(c) The decision of the impartial review must be reached and a copy of it mailed to you and the school within 30 days of the request for the review (unless an extension is granted by the reviewing official). The decision is final unless either party chooses to bring civil action and pursue the matter in court. During the time that the hearing and appeals process is taking place, your child is to remain in his or her present placement, unless you and the school agree otherwise. If the dispute concerns the initial admission of your child to public school, then he or she, with your consent, will be placed in a public school program until the completion of the proceedings.

"SURROGATE PARENTS"

Each school must guarantee that rights of children are protected when:

300a.514(a)(1) ... no parent can be identified,

300a.514(a)(2) ... the whereabouts of the parents is not known,

300a.514(a)(3) ... the child is a ward of the State.

300a.514(b) It is the school's duty to appoint a stand-in or surrogate, or to see that one is appointed. Either the state or your school must have a method of appointing surrogates. The school or state may select a surrogate

300a.514(c)(1) in any manner permitted by State law, but must make sure that the person selected:

300a.514(c)(2)(i) ... does not have a conflict of interest,

300a.514(c)(2)(ii) ... is qualified to represent the child,

300a.514(d)(1)(2) ... is not an employee of a public agency involved in the education or care of the child (a person is not considered an employee solely because he or she serves as a surrogate).

300a.514(e) The surrogate may represent the child in all matters relating to identification, evaluation, placement, and the provision of a free appropriate public education.

# APPENDIX A

## DEFINITIONS

NOTE: Each statement on the following pages refers to Federal regulation subsections. Many of the statements are paraphrased. The regulations are from three pieces of legislation:

Regulation numbers beginning with 84 refer to the regulations issued for Section 504 of the Vocational Rehabilitation Act of 1974 (PL 93-112).

Regulation numbers beginning with 99 refer to the regulations issued for the Family Education Rights and Privacy Act of 1974 (PL 93-568).

Regulation numbers beginning with 300a refer to the regulations issued for the Education of All Handicapped Children Act of 1975 (PL 94-142).

APPENDIX A

Definitions*

Act: The term Act as used in this paper refers to Public Law 94-142 "The Education of All Handicapped Children Act" and subsequent regulations unless otherwise noted.

At No Cost: The term 'at no cost' means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to nonhandicapped students or their parents** as a part of the regular education program.
(§300a.14(b)(1))

Attendance: The term attendance means a person who is in attendance and is there also by correspondence or the period during which a person is working under a work-study program.
(§99.3)

Audiology: The term audiology includes the following: (1) identification of children with hearing loss, (2) determination of the range, nature and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing, (3) provision of habilitative activities such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation, (4) creation and administration of programs for prevention of hearing loss, (5) counseling and guidance of pupils, parents, and teachers regarding hearing loss, and (6) determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid and evaluating the effectiveness of amplification.
(§300a.13(b)(1)(i)-(vi))

Consent: The term consent means that (1) the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication, (2) the parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom, AND (3) the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.
(§300a.500(a)-(c))

*Definitions included in this section are from the Public Laws concerning the handicapped, e.g., PL 94-142, PL 93-112, and PL 93-568, and may not conform to State or local agency definitions. Please refer to State and LEA regulations to further refine these definitions.

**Words that are underscored are defined by appropriate regulations, and can be found throughout this section.

Counseling Services: The term counseling services means services provided by qualified social workers, psychologists, guidance counselors or other qualified personnel.
(§300a.13(b)(2))

Deaf: The term deaf means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.
(§300a.5(b)(1))

Deaf-Blind: The term deaf-blind means concomitant hearing and visual impairment, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for the deaf or blind children.
(§300a.5(b)(2))

Destruction: The term destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
(§300a.560)

Disability: The term disability is used interchangeably with the term handicapping condition. For consistency in this paper, a child with a disability means a child with one of the impairments listed in the definition of "handicapped children."
(§300a.124(e))-comment

Disclosure: The term disclosure means permitting access or the release, transfer, or other communication of education records of the student or the personally identifiable information contained therein, orally or in writing, or by electronic means or by any other means to any party.
(§99.3)

Early Identification: The term early identification means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
(§300a.13(b)(3))

Education Records: The term education records means those records which: (1) are directly related to a student and (2) are maintained by an educational agency or institution or by a party acting for the agency or institution.
(§99.3). The term does not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are the sole possession of the maker and are not accessible or revealed to any other individual except a substitute. The terms does not include records of a law enforcement unit of an educational agency or institution which are maintained apart from the records and are maintained solely for law enforcement purposes with no disclosure to individuals other than law enforcement officials of the jurisdiction.
(§99.3)

Eligible Student: The term eligible student means a student who has attained eighteen years of age or is attending an institution of postsecondary education.
(§99.3)

Evaluation: The term evaluation means procedures used in accordance with statements of the Act to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade or class.
(§)300a.500)

Excess Cost Requirements: The term excess cost requirement means that the local education agency must spend a certain minimum amount for the education of its handicapped children before Part B funds are used. This insures that children serviced with Part B funds have at least the same average amount spent on them, from sources other than Part B, as do the children in the school district taken as a whole.
(§300a.183(b))-comment.

Facility: The term facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.
(§84.3(i))

Federal Financial Assistance: The term federal financial assistance means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), of any other arrangement by which the Department of Health, Education or Welfare provides or otherwise makes available assistance.
(§84.3(d) and (h))

Free Appropriate Public Education: The term free appropriate public education means special education and related services which are provided at public expense, under public supervision and direction, and without charge. The free appropriate public education meets the standards of the State educational agency including preschool, elementary, or secondary school education and are provided in conformity with an individualized education program requirement of the Act.
(§300a.4)

Handicapped Children: The term handicapped children means those children evaluated in accordance with procedural safeguards in evaluations as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped or as having specific learning disabilities, who because of those impairments need special education and related services.

(§300a.5)

Handicapped Person: The term handicapped person means any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment or is regarded as having such impairment.
(§84.3(j))

Hard of Hearing: The term hard of hearing means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of deaf.
(§300a.5(b)(3))

Include: The term include means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.
(§300a.6)

Independent Educational Evaluation: The term independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.
(§300a.503(a)(3)(i))

Individualized Education Program: The term individualized education program (IEP) means a written statement for a handicapped child that is developed and implemented in accordance with the procedures set forth in the Act.
(§300a.340)

Inservice Training: The term inservice training means any training other than that received by an individual in a full-time program which leads to a degree.
(§300a.382(a))

Intermediate Education Unit: The term intermediate education unit (IEU) means any public authority, other than a local education agency which is under the general supervision of a State education agency, and is established by State law for the purpose of providing free public education on a regional basis of which includes special education and related services to handicapped children within that State.
(§300a.7)

Local Education Agency: The term local education agency (LEA) means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. For purpose of this Act the term local education agency also includes intermediate educational units.
(§300a.8)

Major Life Activities: The term major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
(§84.3)(j)(2)(ii))

Medical Services: The term medical services means services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and related services.
(§300a.13(b)(4))

Mentally Retarded: The term mentally retarded means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.
(§300a.5(b)(4))

Multihandicapped: The term multihandicapped means concomitant impairments (such as mentally retarded-blind; mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blind children.
(§300a.5(b)(5))

Native Language: The term native language, when used with reference to a person of limited English-speaking ability, means the language normally used by that person, or in the case of a child, the language used by the parents of the child. The term does not prevent that in all direct contact with a child (including evaluation of the child), communication would be in the language normally used by the child and not that of the parents, if there is a difference between the two OR if a person is deaf or blind, or has no written language, the mode of communication would be that normally used by the person (such as sign language, braille, or oral communication).
(§300a.9)-Comment

Occupational Therapy: The term occupational therapy includes the following: (1) improving, developing or restoring function impaired or lost through illness, injury, or deprivation, (2) improving ability to perform tasks for independent functioning when functions are impaired or lost, and (3) preventing, through early intervention, initial or further impairment of loss of functioning.
(§300a.13(b)(5)(i)-(iii))

Orthopedically Impaired: The orthopedically impaired means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures)
(§300a.5(b)(6))

Other Health Impaired: The term other health impaired means limited strength, vitality or alertness due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia or diabetes, which adversely affects a child's educational performance.
(§300a.5(b)(7))

Parent: The term parent means a parent, a guardian, a person acting as a parent of the child, or a surrogate parent who has been appointed under procedures as outlined in the Act and may also include persons acting in the place of a parent, such as a grandmother or step-parent with whom a child lives, as well as persons who are legally responsible for the child's welfare.
(§300a.10)
(§99.3)

Parent Counseling and Training: The term parent counseling and training means assisting parents in understanding the special needs of their child and providing parents with information about child development.
(§300a.13(b)(6))

Participating Agency: The term participating agency means any agency or institution which collects, maintains or uses personally identifiable information, or from which information is obtained under the Acts of Family Education Rights and Privacy Act and Education of All Handicapped Children's Act.
(§300a.560)

Personally Identifiable: The term personally identifiable means that the information includes one of the following: (1) the name of the child, the child's parent, or other family member, (2) the address of the child, (3) a personal identifier, such as the child's social security number or student number, OR (4) a list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.
(§300a.500)

Physical Education: The term physical education includes the development of the following: (1) physical and motor fitness, (2) fundamental motor skills and patterns, and (3) skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports). The term also includes special physical education, adapted physical education, movement education, and motor development.
(§300a.14(b)(2)(i)(A)-(C);(ii))

Physical or Mental Impairment: The term physical or mental impairment means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
(§84.(j)(2)(i))

Physical Therapy: The term physical therapy means services provided by a qualified physical therapist.
(§300a.13(b)(7))

Private School Handicapped Children: The term private school handicapped children means handicapped children enrolled in private schools or facilities.
(§300a.450)

Psychological Services: The term psychological services includes the following: (1) administering psychological and educational tests, and other assessment procedures, (2) interpreting assessment results, (3) obtaining, integrating, and interpreting information about child behavior and conditions relating to learning, (4) consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations, and (5) planning and managing a program of psychological services, including psychological counseling for children and parents.
(§300a.13(b)(8)(i)-(v))

Public Agency: The term public agency includes the State educational agency, local education agencies, intermediate educational units, and any other political subdivisions of the State which are responsible for providing education to handicapped children.
(§300a.11)

Public Expense: The term public expense means that the public agency either pays for the full cost of the evaluation or insures that the evaluation is otherwise provided at no cost to the parent.
(§300a.503(a)(3)(ii))

Qualified: The term qualified means that a person has met State educational agency approved or recognized certification, licensing, registration or other comparable requirements which apply to the area in which he or she is providing special education or related services.
(§300a.12)

Qualified Handicapped Person: The term qualified handicapped person means...with respect to public preschool, elementary, secondary, or adult educational services, a handicapped person (i) of an age during which nonhandicapped persons are provided such services; (ii) of any age during which it is mandatory under state law to provide such services to handicapped persons, or (iii) to whom a state is required to provide free appropriate public education under s/s612 of the Education of the Handicapped Act...
(§84.3(k)(2))

Recreation: The term recreation includes the following: (1) assessment of leisure function, (2) therapeutic recreation services, (3) recreation programs in schools and community agencies, and (4) leisure education.
(§300a.13(b)(9)(i)-(iv))

Recipient: The term recipient means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.
(§84.3(f))

Related Services: The term related services means transportation and such developmental, corrective and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools and parent counseling and training.
(§300a.13)

School Health Services: The term school health services means services provided by a qualified school nurse or other qualified person.
(§300a.13(b)(10))

Seriously Emotionally Disturbed: The term seriously emotionally disturbed means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance: (1) an inability to learn which cannot be explained by intellectual, sensory, or other health factors, (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers, (3) inappropriate types of behavior or feelings under normal circumstances, (4) a general pervasive mood of unhappiness or depression, OR (5) a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.
(§300a.5(b)(8))

Severely/Profoundly Handicapped: (1) Severely/Profoundly handicapped means an impairment(s) which requires an instructional program focusing on the development of basic life skills (2) and frequently, requires more extensive related educational services (3) than are needed by other handicapped children.

1. These children will exhibit serious functional intellectual retardation, often possess accompanying motoric, sensory, and/or communicative impairments, and may engage in socially maladaptive behavior.

2. Basic life skills include motor, self-care, perceptual, cognitive, communication, social, domestic living, community living, recreation/leisure time, and vocational skills.

3. Needed services may include physical therapy, occupational therapy, speech-language pathology, school health services, parent counseling and training, social work, transportation, special physical education/recreation, and psychological/other assessment services.

Social Work Services in Schools: The term social work services in schools includes the following: (1) preparing a social or developmental history on a handicapped child, (2) group and individual counseling with the child and family, (3) working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school, and (4) mobilizing school and community resources to enable the child to receive maximum benefit from his or her educational program.
(§300a.13(b)(11)(i)-(iv))

Special Education: The term special education means specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction and instruction in hospitals and institutions. The term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child, and is considered "special education" rather than a "related service" under State standards. Special education also includes vocational education if it consists of specially designed instruction at no cost to the parents, to meet the unique needs of a handicapped child. NOTE: The definition of "special education" is particularly important under these regulations, since a child is not handicapped unless he or she needs special education. The definition of related services also depends on this definition, since a related service must be necessary for a child to benefit from special education. Therefore, if a child does not need special education, there can be no related services and the child (because not "handicapped") is not covered under this Act.

(§300a.14)

Specific Learning Disability: The term specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation or of environmental, cultural, or economic disadvantage. (Note: The Federal definition of SLD can be found in the December 29, 1977 issue of the Federal Register.)
(§300a.5(b)(9))

Speech Impaired: The term speech impaired means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which adversely affects a child's educational performance.
(§300a.5(b)(10))

Speech Pathology: The term speech pathology includes the following: (1) identification of children with speech or language disorders, (2) diagnosis and appraisal of specific speech or language disorders, (3) referral for

medical or other professional attention necessary for the habilitation of speech or language disorders, (4) provisions of speech and language services for the habilitation or prevention of communicative disorders, and (5) counseling and guidance of parents, children, and teachers regarding speech and language disorders.
(§300a.13(b)(12)(i)-(v))

State: The term State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.
(§300a.15)

Substitute: The term substitute means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.
(§99.3)

Transportation: The term transportation includes the following: (1) travel to and from school and between schools, (2) travel in and around school buildings, and (3) specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped child.
(§300a.13(b)(12)(i)-(iii))

Visually Handicapped: The term visually handicapped means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.
(§300a.5(b)(11))

Vocational Education: The term vocational education means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment or for additional preparation for a career requiring other than a baccalaureate or advanced degree. The term includes industrial arts and consumer and homemaking education programs.
(§300a.14(b)(3)) and PL 94-142.

# APPENDIX B

## SAMPLE FORMS

SAMPLE FORM

PARENT NOTIFICATION OF REFERRAL/REFERRAL CONFERENCE

Date: _____

Dear _____:

Your child, _____, has been referred for consideration to receive special services. Such services would provide additional educational assistance.

We have scheduled a Referral Conference on _____ (Date), at _____ (Time) in _____ (Location). The purpose of the conference is to discuss _____ (Child's name) needs. It will also provide an opportunity for you to learn more about these special services. If the time, date, or location of the conference is inconvenient for you, please contact us. We will reschedule it at your convenience.

Please complete the enclosed form and return it within seven (7) days. We are required to hold this conference within a specified time period. If you have any questions or concerns, please call _____ (Designated person) at _____ (Phone).

We are looking forward to hearing from you.

Sincerely,

_____
(Principal)

_____
(School)

Enclosure

SAMPLE FORM

PARENT NOTIFICATION OF REFERRAL -- ENCLOSURE

Referral Conference scheduled for _____
(child's name)

_____ I will attend the Referral Conference as scheduled.

_____ I cannot attend the Referral Conference as scheduled.

_____ Please reschedule on _____ / _____ / _____
(date) (time) (Location)

_____ Please contact me by phone at _____ to reschedule the conference.

_____ I choose not to attend the Referral Conference.

Parent/Guardian: _____
(signature)

_____
(date)

RETURN TO: _____
(school official)

_____

_____
(address)

SAMPLE FORM

PARENT NOTIFICATION OF REFERRAL CONFERENCE DECISION

Date: _____

Dear _____:

The possibility of special services for _____ (child's name) was discussed at a Referral Conference on _____. The following decision was reached: _____

_____.

This decision was based on: _____

_____.

If you have any questions or concerns about this decision, please contact _____. He/She has been designated responsible for seeing that the Referral Conference Decision is implemented. We would also welcome any additional information about your child that you may wish to provide.

You will find enclosed a summary of parental rights applicable to the process of identification, evaluation, and placement of students in a special education program. Please contact me if you need additional information.

Sincerely,

_____
(principal)

_____
(phone)

Enclosure

## INFORMED CONSENT

### INFORMATION FOR PARENTS OR GUARDIAN

Under regulations prescribed by State and Federal law, your consent is required before this school district can deal with confidential information on your child in any of the following ways:

1. Disclose the information to anyone other than authorized personnel employed by this district;

2. Use the information for any purpose other than those stated below; or

3. Seek it directly from your child by a comprehensive and/or specialized evaluation. (Your refusal to consent to an evaluation does not prevent your child from receiving beneficial services.)

The Arkansas Department of Education is coordinating the collection of selected information items on physically, emotionally, and mentally handicapped children birth through twenty-one years of age for the purpose of determining present and future program and placement needs, and for statistical reporting. Information is sought by survey from this school district, the Divisions of Developmental Disabilities Services, Mental Health Services, Social Services, Rehabilitation Services, and Juvenile Services of the Department of Social and Rehabilitative Services, Easter Seals of Arkansas, and Arkansas Department of Health.

Information which could identify an individual child will not be collected or maintained beyond the level of the school district and will not be made available to any State level agency, except for such purposes as overall program monitoring. As a parent, you are guaranteed the right to inspect any such information, and to obtain copies. Access by any unauthoried person to information which would identify an individual child, without the informed consent of the parent, is expressly forbidden. Parents will be informed in their primary native language or other mode of communication unless it is clearly not feasible to do so. For individuals eighteen (18) years of age, or older, the above stated rights pass to the individual.

The school district has the responsibility for the confidential maintenance of this information in locked storage and for the destruction of the information following the termination of services for the child. Parents will be notified prior to the destruction of the data.

INFORMED CONSENT

SAMPLE FORM

Name of Student: _____ Date of Birth: _____

Address: _____ School: _____

Authorization is hereby granted to _____ to,
(name of district)

(Check those appropriate)

1. ☐ Conduct a comprehensive evaluation of my child which may include measures of:

a. Intelligence: Measures of intelligence assess the student's capabilities for learning (strengths and weaknesses).

b. Achievement: These measures assess a student's skill development in academic content areas. They measure the level of academic skill attainment or educational achievement.

c. Language/ Communicative Abilities: These measures determine levels of functioning in regard to speech (fluency, voice, articulation), language and hearing processes. This includes abnormal comprehension and/or expression of spoken or written language.

d. Adaptive Behavior: These measures reflect the manner in which an individual copes in independent functioning, personal responsibility, and social responsibility.

e. Other: Measures may be needed to determine a student's specific strengths and weaknesses in a particular area.

_____

_____

☐ Conduct a specialized evaluation of my child.

Type of evaluation: _____

Name of Evaluator or Agency: _____

2. ☐ Release the following information to a third party:

_____
(describe information to be released)

_____
(name of third party)

_____
(address)

_____
(city, state, zip code)

_____
(purpose of release)

3. ☐ Use the following information for other purposes:

_____
(describe information)

_____
(purpose)

I have read and I understand "INFORMATION FOR PARENTS OR GUARDIANS". I understand the purpose(s) for which my consent is being requested.

_____ _____
(signature of parent) (date)

SAMPLE FORM

PARENT NOTIFICATION OF EVALUATION/PROGRAMMING CONFERENCE

Date: _____

Dear: _____:

The evaluation of _____ has been completed.
(child's name)

We are scheduling an Evaluation/Programming Conference to discuss the evaluation information. We would like for you to serve as a conference team member to assist in making appropriate educational decisions.

We have scheduled the Evaluation/Programming Conference on _____,
(date)

at _____ in _____.
(time) (location)

If the time, date or location of this conference is not convenient for you, please contact us. We will reschedule the conference at your convenience.

Please complete the enclosed form and return it within seven (7) days. We are required to hold this conference within a specified time period. If you have any questions or concerns, please contact _____.
(designated person)

We are looking forward to hearing from you.

Sincerely,

_____
(principal)

_____
(school)

Enclosure

SAMPLE FORM

PARENT NOTIFICATION OF

EVALUATION/PROGRAMMING CONFERENCE - ENCLOSURE

Evaluation/Programming Conference scheduled for _____
(child's name)

_____ I will attend the Evaluation/Programming Conference as scheduled.

_____ I cannot attend the Evaluation/Programming Conference as scheduled.

_____ Please reschedule on _____ / _____ / _____.
(date) (time) (location)

_____ Please contact me by phone at _____ to reschedule the conference.

_____ I choose not to attend the Evaluation/Programming Conference.

Parent/Guardian: _____
(signature)

_____
(date)

RETURN TO: _____
(school official)

_____

_____
(address)

SAMPLE FORM

PARENT NOTIFICATION OF EVALUATION/PROGRAMMING CONFERENCE DECISION

Date: _____

Dear _____:

The Evaluation/Programming Conference for _____ (child's name) was conducted on _____ (date). The evaluation results were reviewed and the following decision was reached: _____

_____.

_____ has been designated to be responsible for the implementation of this decision.

This decision of the committee was based on: _____

_____.

The recommended services for your child include: _____ (type of placement).

As a parent/guardian, your written consent is required before initial placement in a special education program can be made.

We believe that this decision represents the most appropriate educational services for your child at this time. If you disagree with this decision, we would be happy to discuss the matter further with you.

As a parent/guardian, you have the following rights:

1. the right to a hearing if you disagree with the conference decision;
2. the right to review the detailed information used to reach the decision; and
3. the right to obtain an independent evaluation.

Much time and effort has been spent in planning the most appropriate program for your child. Your cooperation with the school is very much appreciated

Sincerely,

_____
(principal)

_____
(phone)

SAMPLE FORM

INITIAL PLACEMENT CONSENT FORM

Date: _____

I, as parent or guardian of _____,

(check one)

☐ authorize

☐ do not authorize

placement in the special education program at _____
(location)

in the _____. I understand that the
(type of placement)

need for this placement will be reconsidered and reviewed in terms of my child's progress at least annually.

_____
(parent or guardian's signature)

SAMPLE FORM

## ANNUAL REVIEW CONFERENCE NOTICE

Date: _____

Dear _____:

The Annual Review Conference for _____ (child's name) has been scheduled for _____ (date), at _____ (time), in _____ (location).

If the date, time, or location of the conference is inconvenient for you, please contact us. We will reschedule it at your convenience.

The purpose of this conference is to fulfill the requirement to review your child's educational placement annually. Procedures that will be used include:

_____

_____

_____

_____

_____

_____

You have the right to examine all records related to the annual review. Within ten (10) days after the review is completed, you will receive a report of the findings and recommendations.

Your continued participation in the decisions regarding the appropriate educational program for your child is appreciated.

Sincerely,

_____
(principal)

_____
(phone)

SAMPLE FORM

## INDIVIDUAL EDUCATION PLAN

CHILD'S NAME _____ BIRTH DATE _____ 19 ___ GRADE _____

SCHOOL _____ DATE _____ 19 ___ AGE _____

| STUDENT'S SCHEDULE | REGULAR (Time) | SPECIAL (Time) | MODIFICATIONS FOR REGULAR CLASSES (Refer to Strengths and Weaknesses) |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

B-12

### SIGNATURES OF PLAN DEVELOPERS

| NAME | TITLE | NAME | TITLE |
|---|---|---|---|
| 1. | | 5. | |
| 2. | | 6. | |
| 3. | | 7. | |
| 4. | | 8. | |

### PROJECTED DATES

FOR INITIATION OF SERVICES: _____

FOR DURATION OF SERVICES: _____

SAMPLE FORM

PAGE 2 NAME: _____

DATE: _____

## STATEMENT OF PARENTAL PARTICIPATION

## SUMMARY OF PRESENT LEVEL OF FUNCTIONING

ASSESSMENT RESULTS:

STRENGTHS:

WEAKNESSES:

B-13

SAMPLE FORM

PAGE 3 NAME: _____

DATE: _____

LONG RANGE: GOALS, ACADEMIC, *VOCATIONAL, REGULAR CLASS, OTHER (PLEASE SPECIFY):

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

INSTRUCTIONAL AREA _____ PERSON RESPONSIBLE _____

B-14

| GOAL NUMBER | SHORT TERM OBJECTIVES | MATERIALS | EVALUATION PROCEDURES | DATE | |
|---|---|---|---|---|---|
| | | | | BEGUN | COMPLETED |
| | | | | | |

*SECONDARY EMPHASIS

SAMPLE FORM

PAGE 3-A NAME _____

DATE _____

INSTRUCTIONAL AREA: _____ PERSON RESPONSIBLE: _____

| GOAL NUMBER | SHORT TERM OBJECTIVES | MATERIALS | EVALUATION PROCEDURES | DATE BEGUN | DATE COMPLETED |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | 63 |
| 62 | | | | | |

B-15

DATE: _____ PAGE 4 NAME: _____

## INDIVIDUAL EDUCATION PLAN–FORM

LEAST RESTRICTIVE SETTING:

A. CIRCLE THE PLACEMENT (Service Setting) WHICH IS LEAST RESTRICTIVE FOR THIS CHILD BASED UPON DATA OBTAINED DURING HIS/HER EVALUATION AND UPON THE COMPONENTS OF THIS PLAN:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Regular Class Indirect Service | Regular Class Some Direct Instruction | Regular Class/ Resource Room Up to 50% of the Instructional Day in a Resource Room | Some Instruction in Regular Class Minimum of 50% of Instructional Day Self-contained | No Instruction in Regular Class Special Day Service Facility | Residential School | Hospital Program | Homebound Instruction |

B-16

B. LIST LESSER RESTRICTIVE PLACEMENT OR PROGRAMMING OPTIONS WHICH THE PLAN DEVELOPERS CONSIDERED AND THE REASONS WHY THOSE OPTIONS WERE REJECTED:

OPTION: _____ REASON: _____

OPTION: _____ REASON: _____

OPTION: _____ REASON: _____

C. RELATED SERVICE: (Transportation, Therapy, Adaptive PE And Specialized Equipment, Materials, Etc.)

_____

_____

_____

D. DESCRIPTION OF NONACADEMIC SERVICES IN WHICH THE CHILD IS PARTICIPATING (Extra Curricular, Etc.)

_____

_____

_____